

BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES AND ENERGY  
IN AND FOR THE STATE OF UTAH

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IN THE MATTER OF THE	)	DOCKET NO. 90-050
REQUEST FOR AGENCY ACTION)	)	CAUSE NO. M/045/031
REGARDING RECLAMATION OF	)	053 002
THE 5M CORPORATION'S	)	REPORTER'S TRANSCRIPT
SILVER REEF MINE,	)	
WASHINGTON COUNTY, UTAH.	)	
-----	)	

On Thursday, January 24, 1991, commencing at  
the hour of 10:10 a.m., a hearing was held in the  
above matter before the Board of Oil, Gas and  
Mining, 355 West North Temple, 3 Triad Center,  
Suite 301, Salt Lake City, Utah 84180-1203.

\* \* \* \*

ORIGINAL

STACY & ASSOCIATES  
717 Boston Building  
Salt Lake City, UT 84111  
(801) 328-1188



A P P E A R A N C E S

Board Members

Gregory P. Williams, Chairman  
E. Steele McIntyre  
Judy F. Lever  
James W. Carter  
John M. Garr

Staff Members

Dr. Dianne R. Nielson, Director of DOGM  
Janice L. Brown, Secretary of the Board  
Lynda S. Jenson, Secretary  
Ronald J. Firth, Associate Director of Oil and Gas  
Lowell P. Braxton, Associate Director of Mining  
Frank Matthews, Petroleum Engineer  
Maria M. Soriano, Geologist  
Steve Brooks, Geologist, Bureau of Land Management  
Thomas A. Mitchell, Attorney, Utah Attorney  
General's Office

I N D E X

Witness: Dennis Wayne Hedberg  
Direct Examination. . . . 6



January 24, 1991  
10:10 a.m.

P R O C E E D I N G S

CHAIRMAN WILLIAMS: Item five on the agenda has been continued. Item six. This is the time and place set for the hearing in Docket Number 90-050, Cause Number M/053/002 in the matter of the request for agency action regarding reclamation of the 5M Corporation's Silver Reef Mine, Washington County, Utah.

MR. MITCHELL: Mr. Chairman, Tom Mitchell, appearing for the Division, with Wayne Hedberg of the Division staff.

CHAIRMAN WILLIAMS: Are there any appearances or behalf of 5M Corporation? There are no appearances. Is there anyone else that wishes to be heard in this matter? There are no other appearances. Mr. Mitchell?

MR. MITCHELL: Mr. Chairman, members of the board, this is a request by the Division for authorization to use a bond which has been forfeited by Curly Industries several years ago for the purposes of reclamation work on the 5M site.

The most recent activity on that site involved Division action concerning a notice of



1 intent that 5M had filed. Tentative approval had  
2 been given after some time passing and no further  
3 action occurring and that tentative approval was  
4 withdrawn and there was no appeal by 5M from that.

5 So the only issue that's before us today  
6 is the authority to utilize the bond that Curly  
7 Industries turned over to the state for reclamation  
8 work. At this time we're not prepared to say  
9 exactly what that reclamation activity will be.

10 There's potential that that site will be used as a  
11 super fund -- or super fund money will be used on  
12 that site, and obviously we have no interest in  
13 expending the bond we have to replicate work that  
14 other money is available for.

15 However, there are other hazards on the  
16 site involving open shafts, drill holes and that  
17 sort of situation which super fund money wouldn't  
18 necessarily address which this money would be able  
19 to be used, and this is simply a preliminary step to  
20 enable the Division to be able to use the money for  
21 that purpose as they can determine it will be most  
22 effectively spent.

23 Do you have any questions for Mr. Hedberg  
24 on that matter?

25 MR. CARTER: I was just going to ask,



1 have we, in fact, received cash from the forfeiture  
2 of the bond or is it still in the form of a surety  
3 or a bond agreement of some sort?

4 MR. HEDBERG: I believe the bond was  
5 cashed. I don't know the exact date, but I think  
6 it's been a couple years ago now. It's been -- so  
7 it is available to the Division to utilize.

8 MS. LEVER: So the money is on deposit?

9 MR. HEDBERG: Yes. I believe it's in the  
10 -- it's a fund -- Dianne could better address that  
11 than me, perhaps.

12 DR. NIELSON: Mr. Chairman, if I might,  
13 the fund -- the money is deposited in the Division's  
14 reclamation account and is available to conduct  
15 reclamation at this point.

16 CHAIRMAN WILLIAMS: I think probably it  
17 would be best, Mr. Mitchell, to have Mr. Hedberg  
18 sworn and put on a prima facie case at least of the  
19 basic facts in the request for agency action.

20 MR. MITCHELL: Okay. Let's do it.

21 DENNIS WAYNE HEDBERG

22 Called as a witness, having been first duly sworn,  
23 was examined and testified as follows:

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BY MR. MITCHELL:

Q Mr. Hedberg, would you state your full name and your working address for the record?

A            My name is Dennis Wayne Hedberg. I work for the Division of Oil, Gas and Mining as a permitting supervisor. I work for the Division of Oil, Gas and Mining at the Triad Center, 355 North West Temple, Salt Lake City, Utah.

Q And you're a permit supervisor in what area?

A I'm the permitting supervisor over the minerals reclamation program.

Q Are you familiar with a site known as the 5M mine?

A            Yes, I am.

Q And where is that located?

A            That mine site is located immediately adjacent to the Silver Reef -- town of Silver Reef in Washington County, Utah.

Q How long have you been aware of the existence of this mine?

A I've been aware of the existence of this mine for approximately eight years.

Q With regard to what has been referred to



1 earlier as the Curly bond, could you tell the board  
2 how that bond came to be?

3 A The Curly Industries bond was posted as a  
4 joint venture reclamation surety with 5M,  
5 Incorporated to cover a notice of intention that was  
6 filed jointly by 5M and Curly to mine a portion of  
7 the existing Silver Reef Mine site.

8 The original notice of intent was, I  
9 believe, filed in August of 1984 and the bond amount  
10 that was eventually required and posted by Curly  
11 Industries was \$55,210. The notice of intent that  
12 was originally posted was never finally approved  
13 because Curly Industries withdrew from the joint  
14 partnership and 5M, Incorporated never proceeded to  
15 follow up on finalizing the permitting of that  
16 original notice of intent and the bond was forfeited  
17 concurrently by Curly Industries.

18 Q When Curly Industries' bond was  
19 forfeited, did the Division release Curly from any  
20 further liability?

21 A Yes, Curly was released from any further  
22 reclamation liability upon release of -- forfeiture  
23 of that surety.

24 Q Has the Division recently inspected the  
25 5M site to see -- to determine compliance with the



1 state mineral reclamation statute and the Division's  
2 rules in that area?

3 A Yes. I believe the last inspection  
4 performed by the Division was in October of 1989.  
5 We evaluated the site at that time to determine what  
6 reclamation work needed to be done. We prepared an  
7 assessment of the work that still needed to be done  
8 under the tentatively approved reclamation plan that  
9 was received from 5M.

10 We had prioritized to the best extent  
11 that we could at that time which areas would need  
12 the immediate attention, and we would then, of  
13 course, try to utilize the monies accordingly.

14 Q What's the last agency action that  
15 occurred with regard to this mine site?

16 A The last agency action was a withdrawal  
17 of the tentative approval to 5M, Incorporated, which  
18 was subsequently filed by the issuance of this  
19 notice for Board hearing today.

20 Q Have you received anything from 5M with  
21 regard to the withdrawal of the tentative approval  
22 for mining, notice of intent on the mining permit?

23 A We have received no information from, or  
24 response, from 5M, Incorporated to this date in that  
25 regard.



1           Q       Are you familiar with a letter dated  
2 January 23rd? Yes or no?

3           A       No, I am not.

4           MR. MITCHELL: Okay. I believe the Board  
5 has in front of it in its Board packet a letter  
6 dated January 22nd, 1991 from 5M and --

7                   (Discussion off the record.)

8           CHAIRMAN WILLIAMS: Go ahead.

9           MR. MITCHELL: The Board, of course, is  
10 free to examine this and determine whether they want  
11 to take it into account or not. Obviously we don't  
12 have a witness who's read it, so he can't respond to  
13 it, but I would simply call to the attention of the  
14 Board, if they do determine to examine it, that the  
15 letter states in the fourth full paragraph, "The  
16 chronological statement of facts we recently  
17 received discusses much of the history and  
18 happenings as they have occurred from the standpoint  
19 of the Division's perspective. For the most part,  
20 we agree with the information presented." There's  
21 no -- nothing in here, however, which denies or  
22 raises any question about the fact that they no  
23 longer have even permit application pending before  
24 the Division.

25           CHAIRMAN WILLIAMS: The Board was copied



1 on the letter you're referring to, which is signed  
2 by William T. Sorensen, executive vice-president of  
3 5M, Inc. The letter is addressed to the State of  
4 Utah, Department of Natural Resources, Division of  
5 Oil, Gas and Mining in re this matter. The Board  
6 has reviewed the letter and we'll receive it as part  
7 of the record in this case.

8 MR. MITCHELL: That would be the sum of  
9 our testimony at this time, unless there's any  
10 questions from the Board.

11 CHAIRMAN WILLIAMS: Does the Board have  
12 any questions?

13 MR. GARR: Yes, Mr. Chairman. Do you  
14 have any idea when this super fund may possibly kick  
15 in? Do you have any idea what their time schedule  
16 may be or even whether that is realistic?

17 THE WITNESS: I've been trying to follow  
18 up with this as recently as two days ago with the  
19 State Department of Health, their Bureau of Solid  
20 Waste Management, Hazardous Waste Management over  
21 there. Late last fall, they initiated the  
22 preliminary phase of their investigations of that  
23 site, which encompassed some physical sampling -- an  
24 evaluation of the hazards on the site and some  
25 physical samplings of soil material, spoil material



1 and that sort of a thing. They have -- those  
2 analytical results are still not available and I  
3 think they sampled the site somewhere back in  
4 October or November of 1990.

5 They are working with EPA in developing,  
6 I guess, or continuing along with their plan for  
7 evaluating this site. I do not know when the  
8 analytical results will be made available. It has  
9 to go through EPA review once the state has prepared  
10 their preliminary assessment of the site.

11 I guess it's quite a detailed step-by-  
12 step process that has to be followed in determining  
13 whether this site can be considered a super fund  
14 site at all. We will be working as closely as  
15 possible with State Health in becoming aware of the  
16 results of that study before we would enact  
17 reclamation activities that might affect some of the  
18 questionable materials down there that are being  
19 evaluated.

20 MR. GARR: I guess the other concern that  
21 I would have, Mr. Chairman and members of the Board,  
22 would be that certainly I think some reclamation  
23 needs to go forward in terms of eliminating safety  
24 hazards, covering that shaft. It's like 180 feet  
25 deep. That's a serious hazard if it's unattended.



1     Apparently there are not people there very often,  
2     but I think that ought to be the primary activity.

3             It sounds like there may be some valuable  
4     assets there or could be perhaps down the road,  
5     depending on what happens. I guess I'd be concerned  
6     with total reclamation at this time. Give super  
7     fund the chance to move, but certainly the safety  
8     hazards need to be addressed.

9             MR. MITCHELL: It's certainly fair to say  
10    with the size of that bond, the most that's going to  
11    be accomplished is the most egregious physical  
12    safety hazards, particularly to the community who  
13    lives right -- you know, there's children who live  
14    -- it's their playground, essentially. That those  
15    immediate concerns would be the most that could be  
16    addressed with the funds available and, as you're  
17    aware, I think, this is going on 12 years of being,  
18    you know, essentially in the middle of a suburb and  
19    we just don't want any more time to go by without  
20    the ability to close up some shafts and that sort of  
21    thing.

22            MS. LEVER: That was my concern as I read  
23    it, that we've got a bond cost of over \$100,000.  
24    We've got about half of that, and my concern is can  
25    we, with the partial reclamation, do what we need to



1 do. If we go into there and take over the liability  
2 for undertaking that reclamation, can we eliminate  
3 the hazards, because I think the question raises  
4 whether or not, if something happened, whether we  
5 have substituted ourselves on the hook for the  
6 operator for undertaking that.

7 MR. MITCHELL: You're certainly  
8 absolutely correct. Would it be nice to have a  
9 larger bond? Yeah, it would, but in terms of  
10 picking up the liability, of taking over the  
11 liability of 5M in this instance by operating with  
12 the Curly bond to address those most immediate  
13 concerns, no, I don't believe that that would have  
14 the effect of putting us in those shoes.

15 MS. LEVER: The other question that I did  
16 have -- it's left me now. I'm sorry.

17 MR. MITCHELL: I think Jim had a  
18 question.

19 MR. CARTER: No, I -- I think you've  
20 answered that. My understanding is there's not a  
21 specific reclamation plan that budgets this amount  
22 of money at this point.

23 MR. MITCHELL: That's correct.

24 MR. CARTER: And that that will be the  
25 next step. Once you receive authorization from us,



1 formulate a specific plan, see how far your money  
2 will go, target the most egregious hazards for  
3 immediate remediation and then stretch it out as far  
4 as it can.

5 MR. MITCHELL: That's right.

6 MS. LEVER: My other concern, and I'm  
7 sorry that I had a partial loss, was I'm really  
8 uncomfortable with you bringing in an application  
9 and you haven't had an inspection on it for over a  
10 year when you're coming in.

11 MR. HEDBERG: It's November of 1990.

12 MS. LEVER: You said October of '89 in  
13 your testimony. Is that wrong?

14 THE WITNESS: If I did I was mistaken.  
15 It was either October or November, and I could get  
16 that exact date, but it was 1990.

17 MR. MITCHELL: I think the Board -- and I  
18 think you do raise a concern and I think it is  
19 relevant that you're aware only three people are  
20 responsible for every mine that's not a coal mine in  
21 the entire state of Utah.

22 MS. LEVER: That's okay, but when you're  
23 coming in and asking for forfeiture, a year would be  
24 unacceptable, so I'm glad that that was a slip of  
25 the tongue.



1 THE WITNESS: I apologize.

2 MS. LEVER: And it would have been nice  
3 if we had some picture or something so we could see  
4 the portions of the site that you were concerned  
5 about to put into the record.

6 THE WITNESS: We have lots of pictures on  
7 file that we would be very happy to provide the  
8 Board.

9 MR. CARTER: Let me follow that up by  
10 saying I would request that we get a briefing once  
11 you've formulated a reclamation plan. I think just  
12 for our own information, it would be helpful to have  
13 a briefing item talking about what you propose to do  
14 and how you intend to use the money and an update on  
15 whether the state or EPA is going to step in and  
16 spend money on the site.

17 MR. MITCHELL: Certainly. And even if we  
18 haven't got anything firm, I think we'll try on a  
19 regular basis to update you on the progress.

20 MR. CARTER: I'm prepared to make a  
21 motion.

22 CHAIRMAN WILLIAMS: Okay.

23 MR. CARTER: I would move that we do  
24 enter an order requiring 5M to cease all operations  
25 at the Silver Reef Mine site and authorizing the



1 Division to immediately begin reclamation of the  
2 Silver Reef Mine site using the funds currently  
3 available from the forfeited Curly Industries bond.

4 CHAIRMAN WILLIAMS: Is there a second?

5 MR. STRINGHAM: Second.

6 CHAIRMAN WILLIAMS: Any discussion? All  
7 in favor say "aye."

8 BOARD MEMBERS: Aye.

9 CHAIRMAN WILLIAMS: All opposed, say  
10 "no." Done. Prepare an order. Thank you.

11 MR. MITCHELL: Thank you.

12 (Whereupon the taking of the hearing was  
13 concluded at 10:30 a.m.)

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STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

I, RENEE L. STACY, CSR, RPR, hereby certify that I am a Certified Shorthand Reporter of the State of Utah and that on the date herein noted I was present before the Board of Oil, Gas and Mining at the hearing of the foregoing matter and thereat I reported the proceedings in shorthand and thereafter I transcribed my said shorthand notes into typewriting and the foregoing pages numbered from 3 to 16, inclusive, contain a full, true and correct transcript of the proceedings had at said time.

RENEE L. STACY CSR RPR

Salt Lake City, Utah  
February 7, 1991

